

## § 515.576

§ 515.560(c) and such additional transactions as are directly incident to certain humanitarian projects in or related to Cuba not otherwise covered by this part that are designed to directly benefit the Cuban people. Such projects may include, but are not limited to, medical and health-related projects, environmental projects, projects involving non-formal educational training including adult literacy and vocational skills, community-based grass roots projects, projects suitable to the development of small-scale private enterprise, projects that are related to agricultural and rural development which promote independent activity, and projects involving the donation of goods to meet basic human needs as provided in 15 CFR 740.12(b) of the Export Administration Regulations, 15 CFR parts 730-774. Specific licenses may be issued authorizing transactions for multiple visits for the same project over an extended period of time by applicants demonstrating a significant record of overseas humanitarian projects.

[64 FR 25819, May 13, 1999]

### **§ 515.576 Activities of private foundations or research or educational institutes.**

Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to activities by private foundations or research or educational institutes that have an established interest in international relations to collect information related to Cuba for noncommercial purposes, not otherwise covered by the general license for professional research contained in § 515.564 or more properly issued under § 515.575, relating to humanitarian projects. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba for the same project over an extended period of time.

[64 FR 25820, May 13, 1999]

## 31 CFR Ch. IV (7-1-99 Edition)

### **Subpart F—Reports**

#### **§ 515.601 Records and reports.**

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45106, Aug. 25, 1997]

### **Subpart G—Penalties**

SOURCE: 63 FR 10331, Mar. 3, 1998, unless otherwise noted.

#### **§ 515.701 Penalties.**

(a) Attention is directed to section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16—“TWEA”), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note), which provides that:

(1) Persons who willfully violate any provision of TWEA or any license, rule, or regulation issued thereunder, and persons who willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of TWEA shall, upon conviction, be fined not more than \$1,000,000 or, if an individual, be fined not more than \$100,000 or imprisoned for not more than 10 years, or both; and an officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, concerned in a violation of TWEA may upon conviction be forfeited to the United States.

(3) The Secretary of the Treasury may impose a civil penalty of not more than \$55,000 per violation on any person who violates any license, order, or regulation issued under TWEA.

(4) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation subject to a civil penalty issued pursuant to

TWEA shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

(b) The criminal penalties provided in TWEA are subject to increase pursuant to 18 U.S.C. 3571 which, when read in conjunction with section 16 of TWEA, provides that persons convicted of violating TWEA may be fined up to the greater of either \$250,000 for individuals and \$1,000,000 for organizations or twice the pecuniary gain or loss from the violation.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

**§ 515.702 Prepenalty notice; contents; respondent's rights; service.**

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Trading with the Enemy Act, and the Director determines that further proceedings are warranted, he or she shall issue to the person concerned a notice of his or her intent to impose a monetary penalty and/or forfeiture. The prepenalty notice may be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents—(1) Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty and/or forfeiture.

(2) *Respondent's rights—(i) Right to respond.* The prepenalty notice shall also inform the respondent of respondent's right to respond in writing to the notice within 30 calendar days of the mailing or other service of the notice pursuant to paragraph (c) of this section, as to why a monetary penalty and/or forfeiture should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

(ii) *Right to request a hearing.* The prepenalty notice shall also inform the respondent that, in the response provided for in paragraph (b)(2)(i) of this section, the respondent may also request a hearing conducted pursuant to 5 U.S.C. 554-557 to present the respondent's defenses to the imposition of a penalty and/or forfeiture and to offer any other information that the respondent believes should be included in the agency record prior to a final determination concerning the imposition of a penalty and/or forfeiture. A failure to request a hearing within 30 calendar days of service of the prepenalty notice constitutes a waiver of a hearing.

(iii) *Right to request discovery prior to hearing.* The prepenalty notice shall also inform the respondent of the right to discovery prior to a requested hearing. Discovery must be requested in writing in the response provided for in paragraph (b)(2)(i) of this section, jointly with respondent's request for a hearing. A failure to file a request for discovery within 30 calendar days of service of the prepenalty notice constitutes a waiver of prehearing discovery.

(c) *Service.* The prepenalty notice, or any amendment or supplement thereto, shall be served upon the respondent. Service shall be presumed completed:

(1) Upon mailing a copy by registered or certified mail, return receipt requested, addressed to the respondent at the respondent's last known address; or

(2) Upon the mailing date stated in a date-stamped postal receipt presented by the Office of Foreign Assets Control with respect to any respondent who has refused, avoided, or in any way attempted to decline delivery, tender, or acceptance of the registered or certified letter or has refused to recover a registered or certified letter served; or